

109TH CONGRESS  
2D SESSION

# H. R. 6377

To authorize the implementation of the San Joaquin River Restoration  
Settlement.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 6, 2006

Mr. RADANOVICH (for himself, Mr. POMBO, Mrs. NAPOLITANO, Mr. CARDOZA,  
Mr. COSTA, and Mr. GEORGE MILLER of California) introduced the fol-  
lowing bill; which was referred to the Committee on Resources

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## A BILL

To authorize the implementation of the San Joaquin River  
Restoration Settlement.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “San Joaquin River  
5 Restoration Settlement Act”.

### 6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to authorize implementa-  
8 tion of the Stipulation of Settlement dated September 13,  
9 2006 (referred to in this Act as the “Settlement”), in the  
10 litigation entitled NATURAL RESOURCES DEFENSE

1 COUNCIL, et al. v. KIRK RODGERS, et al., United  
2 States District Court, Eastern District of California, No.  
3 CIV. S-88-1658-LKK/GGH.

4 **SEC. 3. DEFINITIONS.**

5 In this Act, the terms “Friant Division long-term  
6 contractors”, “Interim Flows”, “Restoration Flows”, “Re-  
7 covered Water Account”, “Restoration Goal”, and “Water  
8 Management Goal” have the meanings given the terms in  
9 the Settlement.

10 **SEC. 4. IMPLEMENTATION OF SETTLEMENT.**

11 (a) IN GENERAL.—The Secretary of the Interior (re-  
12 ferred to in this Act as the “Secretary”) is hereby author-  
13 ized and directed to implement the terms and conditions  
14 of the Settlement in cooperation with the State of Cali-  
15 fornia, including the following measures as these measures  
16 are prescribed in the Settlement:

17 (1) Design and construct channel and struc-  
18 tural improvements as described in paragraph 11 of  
19 the Settlement, provided, however, that the Sec-  
20 retary shall not make or fund any such improve-  
21 ments to facilities or property of the State of Cali-  
22 fornia without the approval of the State of Cali-  
23 fornia and the State’s agreement in 1 or more  
24 Memoranda of Understanding to participate where  
25 appropriate.

1           (2) Modify Friant Dam operations so as to pro-  
2       vide Restoration Flows and Interim Flows.

3           (3) Acquire water, water rights, or options to  
4       acquire water as described in paragraph 13 of the  
5       Settlement, provided, however, such acquisitions  
6       shall only be made from willing sellers and not  
7       through eminent domain.

8           (4) Implement the terms and conditions of  
9       paragraph 16 of the Settlement related to recircula-  
10      tion, recapture, reuse, exchange, or transfer of water  
11      released for Restoration Flows or Interim Flows, for  
12      the purpose of accomplishing the Water Manage-  
13      ment Goal of the Settlement, subject to—

14                (A) applicable provisions of California  
15      water law;

16                (B) the Secretary's use of Central Valley  
17      Project facilities to make Project water (other  
18      than water released from Friant Dam pursuant  
19      to the Settlement) and water acquired through  
20      transfers available to existing south-of-Delta  
21      Central Valley Project contractors; and

22                (C) the Secretary's performance of the  
23      Agreement of November 24, 1986, between the  
24      United States of America and the Department  
25      of Water Resources of the State of California

1           for the coordinated operation of the Central  
2           Valley Project and the State Water Project as  
3           authorized by Congress in section 2(d) of the  
4           Act of August 26, 1937 (50 Stat. 850, 100  
5           Stat. 3051), including any agreement to resolve  
6           conflicts arising from said Agreement.

7           (5) Develop and implement the Recovered  
8           Water Account as specified in paragraph 16(b) of  
9           the Settlement, including the pricing and payment  
10          crediting provisions described in paragraph 16(b)(3)  
11          of the Settlement, provided that all other provisions  
12          of Federal reclamation law shall remain applicable.

13          (b) AGREEMENTS.—

14               (1) AGREEMENTS WITH THE STATE.—In order  
15               to facilitate or expedite implementation of the Settle-  
16               ment, the Secretary is authorized and directed to  
17               enter into appropriate agreements, including cost  
18               sharing agreements, with the State of California.

19               (2) OTHER AGREEMENTS.—The Secretary is  
20               authorized to enter into contracts, memoranda of  
21               understanding, financial assistance agreements, cost  
22               sharing agreements, and other appropriate agree-  
23               ments with State, tribal, and local governmental  
24               agencies, and with private parties, including agree-  
25               ments related to construction, improvement, and op-

1       eration and maintenance of facilities, subject to any  
2       terms and conditions that the Secretary deems nec-  
3       essary to achieve the purposes of the Settlement.

4       (c) ACCEPTANCE AND EXPENDITURE OF NON-FED-  
5       ERAL FUNDS.—The Secretary is authorized to accept and  
6       expend non-Federal funds in order to facilitate implemen-  
7       tation of the Settlement.

8       (d) MITIGATION OF IMPACTS.—Prior to the imple-  
9       mentation of decisions or agreements to construct, im-  
10      prove, operate, or maintain facilities that the Secretary de-  
11      termines are needed to implement the Settlement, the Sec-  
12      retary shall identify—

13           (1) the impacts associated with such actions;  
14      and

15           (2) the measures which shall be implemented to  
16      mitigate impacts on adjacent and downstream water  
17      users and landowners.

18      (e) DESIGN AND ENGINEERING STUDIES.—The Sec-  
19      retary is authorized to conduct any design or engineering  
20      studies that are necessary to implement the Settlement.

21      (f) EFFECT ON CONTRACT WATER ALLOCATIONS.—  
22      Except as otherwise provided in this section, the imple-  
23      mentation of the Settlement and the reintroduction of  
24      California Central Valley Spring Run Chinook salmon  
25      pursuant to the Settlement and section 10, shall not result

1 in the involuntary reduction in contract water allocations  
 2 to Central Valley Project long-term contractors, other  
 3 than Friant Division long-term contractors.

4 (g) EFFECT ON EXISTING WATER CONTRACTS.—Ex-  
 5 cept as provided in the Settlement and this Act, nothing  
 6 in this Act shall modify or amend the rights and obliga-  
 7 tions of the parties to any existing water service, repay-  
 8 ment, purchase or exchange contract.

9 **SEC. 5. ACQUISITION AND DISPOSAL OF PROPERTY; TITLE**  
 10 **TO FACILITIES.**

11 (a) TITLE TO FACILITIES.—Unless acquired pursu-  
 12 ant to subsection (b), title to any facility or facilities,  
 13 stream channel, levees, or other real property modified or  
 14 improved in the course of implementing the Settlement au-  
 15 thorized by this Act, and title to any modifications or im-  
 16 provements of such facility or facilities, stream channel,  
 17 levees, or other real property—

18 (1) shall remain in the owner of the property;

19 and

20 (2) shall not be transferred to the United  
 21 States on account of such modifications or improve-  
 22 ments.

23 (b) ACQUISITION OF PROPERTY.—

24 (1) IN GENERAL.—The Secretary is authorized  
 25 to acquire through purchase from willing sellers any

1 property, interests in property, or options to acquire  
2 real property needed to implement the Settlement  
3 authorized by this Act.

4 (2) APPLICABLE LAW.—The Secretary is au-  
5 thorized, but not required, to exercise all of the au-  
6 thorities provided in section 2 of the Act of August  
7 26, 1937 (50 Stat. 844, chapter 832), to carry out  
8 the measures authorized in this section and section  
9 4.

10 (c) DISPOSAL OF PROPERTY.—

11 (1) IN GENERAL.—Upon the Secretary's deter-  
12 mination that retention of title to property or inter-  
13 ests in property acquired pursuant to this Act is no  
14 longer needed to be held by the United States for  
15 the furtherance of the Settlement, the Secretary is  
16 authorized to dispose of such property or interest in  
17 property on such terms and conditions as the Sec-  
18 retary deems appropriate and in the best interest of  
19 the United States, including possible transfer of  
20 such property to the State of California.

21 (2) RIGHT OF FIRST REFUSAL.—In the event  
22 the Secretary determines that property acquired pur-  
23 suant to this Act through the exercise of its eminent  
24 domain authority is no longer necessary for imple-  
25 mentation of the Settlement, the Secretary shall pro-

1       vide a right of first refusal to the property owner  
2       from whom the property was initially acquired, or  
3       his or her successor in interest, on the same terms  
4       and conditions as the property is being offered to  
5       other parties.

6               (3) DISPOSITION OF PROCEEDS.—Proceeds  
7       from the disposal by sale or transfer of any such  
8       property or interests in such property shall be depos-  
9       ited in the fund established by section 9(c).

10 **SEC. 6. COMPLIANCE WITH APPLICABLE LAW.**

11       (a) APPLICABLE LAW.—

12               (1) IN GENERAL.—In undertaking the measures  
13       authorized by this Act, the Secretary and the Sec-  
14       retary of Commerce shall comply with all applicable  
15       Federal and State laws, rules, and regulations, in-  
16       cluding the National Environmental Policy Act of  
17       1969 (42 U.S.C. 4321 et seq.) and the Endangered  
18       Species Act of 1973 (16 U.S.C. 1531 et seq.), as  
19       necessary.

20               (2) ENVIRONMENTAL REVIEWS.—The Secretary  
21       and the Secretary of Commerce are authorized and  
22       directed to initiate and expeditiously complete appli-  
23       cable environmental reviews and consultations as  
24       may be necessary to effectuate the purposes of the  
25       Settlement.

1       (b) EFFECT ON STATE LAW.—Nothing in this Act  
2 shall preempt State law or modify any existing obligation  
3 of the United States under Federal reclamation law to op-  
4 erate the Central Valley Project in conformity with State  
5 law.

6       (c) USE OF FUNDS FOR ENVIRONMENTAL RE-  
7 VIEWS.—

8           (1) DEFINITION OF ENVIRONMENTAL RE-  
9 VIEW.—For purposes of this subsection, the term  
10 “environmental review” includes any consultation  
11 and planning necessary to comply with subsection  
12 (a).

13          (2) PARTICIPATION IN ENVIRONMENTAL RE-  
14 VIEW PROCESS.—In undertaking the measures au-  
15 thorized by section 4, and for which environmental  
16 review is required, the Secretary may provide funds  
17 made available under this Act to affected Federal  
18 agencies, State agencies, local agencies, and Indian  
19 tribes if the Secretary determines that such funds  
20 are necessary to allow the Federal agencies, State  
21 agencies, local agencies, or Indian tribes to effec-  
22 tively participate in the environmental review proc-  
23 ess.

24          (3) LIMITATION.—Funds may be provided  
25 under paragraph (2) only to support activities that

1 directly contribute to the implementation of the  
2 terms and conditions of the Settlement.

3 (d) NONREIMBURSABLE FUNDS.—The United  
4 States' share of the costs of implementing this Act shall  
5 be nonreimbursable under Federal reclamation law, pro-  
6 vided that nothing in this subsection shall limit or be con-  
7 strued to limit the use of the funds assessed and collected  
8 pursuant to sections 3406(c)(1) and 3407(d)(2) of the  
9 Reclamation Projects Authorization and Adjustment Act  
10 of 1992 (Public Law 102–575; 106 Stat. 4721, 4727), for  
11 implementation of the Settlement, nor shall it be con-  
12 strued to limit or modify existing or future Central Valley  
13 Project Ratesetting Policies.

14 **SEC. 7. COMPLIANCE WITH CENTRAL VALLEY PROJECT IM-**  
15 **PROVEMENT ACT.**

16 Congress hereby finds and declares that the Settle-  
17 ment satisfies and discharges all of the obligations of the  
18 Secretary contained in section 3406(c)(1) of the Reclama-  
19 tion Projects Authorization and Adjustment Act of 1992  
20 (Public Law 102–575; 106 Stat. 4721), provided, how-  
21 ever, that—

22 (1) the Secretary shall continue to assess and  
23 collect the charges provided in section 3406(c)(1) of  
24 the Reclamation Projects Authorization and Adjust-  
25 ment Act of 1992 (Public Law 102–575; 106 Stat.

1 4721), as provided in the Settlement and section  
2 9(d); and

3 (2) those assessments and collections shall con-  
4 tinue to be counted towards the requirements of the  
5 Secretary contained in section 3407(c)(2) of the  
6 Reclamation Projects Authorization and Adjustment  
7 Act of 1992 (Public Law 102–575; 106 Stat. 4726).

8 **SEC. 8. NO PRIVATE RIGHT OF ACTION.**

9 (a) IN GENERAL.—Nothing in this Act confers upon  
10 any person or entity not a party to the Settlement a pri-  
11 vate right of action or claim for relief to interpret or en-  
12 force the provisions of this Act or the Settlement.

13 (b) APPLICABLE LAW.—This section shall not alter  
14 or curtail any right of action or claim for relief under any  
15 other applicable law.

16 **SEC. 9. APPROPRIATIONS; SETTLEMENT FUND.**

17 (a) IMPLEMENTATION COSTS.—

18 (1) IN GENERAL.—The costs of implementing  
19 the Settlement shall be covered by payments or in-  
20 kind contributions made by Friant Division contrac-  
21 tors and other non-Federal parties, including the  
22 funds provided in paragraphs (1) through (5) of  
23 subsection (c), estimated to total \$440,000,000, of  
24 which the non-Federal payments are estimated to  
25 total \$200,000,000 (at October 2006 price levels)

1 and the amount from repaid Central Valley Project  
2 capital obligations is estimated to total  
3 \$240,000,000, the additional Federal appropriation  
4 of \$250,000,000 authorized pursuant to subsection  
5 (b)(1), and such additional funds authorized pursu-  
6 ant to subsection (b)(2); provided however, that the  
7 costs of implementing the provisions of section  
8 4(a)(1) shall be shared by the State of California  
9 pursuant to the terms of a Memorandum of Under-  
10 standing executed by the State of California and the  
11 Parties to the Settlement on September 13, 2006,  
12 which includes at least \$110,000,000 of State funds.

13 (2) ADDITIONAL AGREEMENTS.—

14 (A) IN GENERAL.—The Secretary shall  
15 enter into 1 or more agreements to fund or im-  
16 plement improvements on a project-by-project  
17 basis with the State of California.

18 (B) REQUIREMENTS.—Any agreements en-  
19 tered into under subparagraph (A) shall provide  
20 for recognition of either monetary or in-kind  
21 contributions toward the State of California's  
22 share of the cost of implementing the provisions  
23 of section 4(a)(1).

24 (3) LIMITATION.—Except as provided in the  
25 Settlement, to the extent that costs incurred solely

1 to implement this Settlement would not otherwise  
2 have been incurred by any entity or public or local  
3 agency or subdivision of the State of California, such  
4 costs shall not be borne by any such entity, agency,  
5 or subdivision of the State of California, unless such  
6 costs are incurred on a voluntary basis.

7 (b) AUTHORIZATION OF APPROPRIATIONS.—

8 (1) IN GENERAL.—In addition to the funds pro-  
9 vided in paragraphs (1) through (5) of subsection  
10 (c), there are also authorized to be appropriated not  
11 to exceed \$250,000,000 (at October 2006 price lev-  
12 els) to implement this Act and the Settlement, to be  
13 available until expended; provided however, that the  
14 Secretary is authorized to spend such additional ap-  
15 propriations only in amounts equal to the amount of  
16 funds deposited in the Fund (not including pay-  
17 ments under subsection (c)(2), proceeds under sub-  
18 section (c)(3) other than an amount equal to what  
19 would otherwise have been deposited under sub-  
20 section (c)(1) in the absence of issuance of the bond,  
21 and proceeds under subsection (c)(4)), the amount  
22 of in-kind contributions, and other non-Federal pay-  
23 ments actually committed to the implementation of  
24 this Act or the Settlement.

1           (2) OTHER FUNDS.—The Secretary is author-  
2       ized to use monies from the Fund created under sec-  
3       tion 3407 of the Reclamation Projects Authorization  
4       and Adjustment Act of 1992 (Public Law 102–575;  
5       106 Stat. 4727) for purposes of this Act.

6       (c) FUND.—There is hereby established within the  
7       Treasury of the United States a fund, to be known as the  
8       “San Joaquin River Restoration Fund”, into which the  
9       following shall be deposited and used solely for the purpose  
10      of implementing the Settlement, to be available for ex-  
11      penditure without further appropriation:

12           (1) Subject to subsection (d), at the beginning  
13      of the fiscal year following enactment of this Act, all  
14      payments received pursuant to section 3406(c)(1) of  
15      the Reclamation Projects Authorization and Adjust-  
16      ment Act of 1992 (Public Law 102–575; 106 Stat.  
17      4721).

18           (2) Subject to subsection (d), the capital com-  
19      ponent (not otherwise needed to cover operation and  
20      maintenance costs) of payments made by Friant Di-  
21      vision long-term contractors pursuant to long-term  
22      water service contracts beginning the first fiscal year  
23      after the date of enactment of this Act. The capital  
24      repayment obligation of such contractors under such  
25      contracts shall be reduced by the amount paid pur-

1       suant to this paragraph and the appropriate share  
2       of the existing Federal investment in the Central  
3       Valley Project to be recovered by the Secretary pur-  
4       suant to Public Law 99–546 (100 Stat. 3050) shall  
5       be reduced by an equivalent sum.

6               (3) Proceeds from a bond issue, federally-guar-  
7       anteed loan, or other appropriate financing instru-  
8       ment, to be issued or entered into by an appropriate  
9       public agency or subdivision of the State of Cali-  
10      fornia pursuant to subsection (d)(2).

11              (4) Proceeds from the sale of water pursuant to  
12      the Settlement, or from the sale of property or inter-  
13      ests in property as provided in section 5.

14              (5) Any non-Federal funds, including State  
15      cost-sharing funds, contributed to the United States  
16      for implementation of the Settlement, which the Sec-  
17      retary may expend without further appropriation for  
18      the purposes for which contributed.

19      (d) GUARANTEED LOANS AND OTHER FINANCING  
20      INSTRUMENTS.—

21              (1) IN GENERAL.—The Secretary is authorized  
22      to enter into agreements with appropriate agencies  
23      or subdivisions of the State of California in order to  
24      facilitate a bond issue, federally-guaranteed loan, or

1 other appropriate financing instrument, for the pur-  
2 pose of implementing this Settlement.

3 (2) REQUIREMENTS.—If the Secretary and an  
4 appropriate agency or subdivision of the State of  
5 California enter into such an agreement, and if such  
6 agency or subdivision issues 1 or more revenue  
7 bonds, procures a federally secured loan, or other  
8 appropriate financing to fund implementation of the  
9 Settlement, and if such agency deposits the proceeds  
10 received from such bonds, loans, or financing into  
11 the Fund pursuant to subsection (c)(3), monies  
12 specified in paragraphs (1) and (2) of subsection (c)  
13 shall be provided by the Friant Division long-term  
14 contractors directly to such public agency or subdivi-  
15 sion of the State of California to repay the bond,  
16 loan or financing rather than into the Fund.

17 (3) DISPOSITION OF PAYMENTS.—After the sat-  
18 isfaction of any such bond, loan, or financing, the  
19 payments specified in paragraphs (1) and (2) of sub-  
20 section (c) shall be paid directly into the Fund au-  
21 thorized by this section.

22 (e) LIMITATION ON CONTRIBUTIONS.—Payments  
23 made by long-term contractors who receive water from the  
24 Friant Division and Hidden and Buchanan Units of the  
25 Central Valley Project pursuant to sections 3406(c)(1)

1 and 3407(d)(2) of the Reclamation Projects Authorization  
2 and Adjustment Act of 1992 (Public Law 102–575; 106  
3 Stat. 4721, 4727) and payments made pursuant to para-  
4 graph 16(b)(3) of the Settlement and subsection (c)(2)  
5 shall be the limitation of such entities’ direct financial con-  
6 tribution to the Settlement, subject to the terms and con-  
7 ditions of paragraph 21 of the Settlement.

8 (f) NO ADDITIONAL EXPENDITURES REQUIRED.—  
9 Nothing in this Act shall be construed to require a Federal  
10 official to expend Federal funds not appropriated by Con-  
11 gress, or to seek the appropriation of additional funds by  
12 Congress, for the implementation of the Settlement.

13 (g) REACH 4B.—

14 (1) STUDY.—

15 (A) IN GENERAL.—In accordance with the  
16 Settlement and the Memorandum of Under-  
17 standing executed pursuant to paragraph 6 of  
18 the Settlement, the Secretary shall conduct a  
19 study that specifies—

20 (i) the costs of undertaking any work  
21 required under paragraph 11(a)(3) of the  
22 Settlement to increase the capacity of  
23 Reach 4B prior to reinitiation of Restora-  
24 tion Flows;

1 (ii) the impacts associated with re-  
2 initiation of such flows; and

3 (iii) measures that shall be imple-  
4 mented to mitigate impacts.

5 (B) DEADLINE.—The study under sub-  
6 paragraph (A) shall be completed prior to res-  
7 toration of any flows other than Interim Flows.

8 (2) REPORT.—

9 (A) IN GENERAL.—The Secretary shall file  
10 a report with Congress not later than 90 days  
11 after issuing a determination, as required by  
12 the Settlement, on whether to expand channel  
13 conveyance capacity to 4500 cubic feet per sec-  
14 ond in Reach 4B of the San Joaquin River, or  
15 use an alternative route for pulse flows, that—

16 (i) explains whether the Secretary has  
17 decided to expand Reach 4B capacity to  
18 4500 cubic feet per second; and

19 (ii) addresses the following matters:

20 (I) The basis for the Secretary's  
21 determination, whether set out in en-  
22 vironmental review documents or oth-  
23 erwise, as to whether the expansion of  
24 Reach 4B would be the preferable  
25 means to achieve the Restoration Goal

1 as provided in the Settlement, includ-  
2 ing how different factors were as-  
3 sessed such as comparative biological  
4 and habitat benefits, comparative  
5 costs, relative availability of State  
6 cost-sharing funds, and the compara-  
7 tive benefits and impacts on water  
8 temperature, water supply, private  
9 property, and local and downstream  
10 flood control.

11 (II) The Secretary's final cost es-  
12 timate for expanding Reach 4B capac-  
13 ity to 4500 cubic feet per second, or  
14 any alternative route selected, as well  
15 as the alternative cost estimates pro-  
16 vided by the State, by the Restoration  
17 Administrator, and by the other par-  
18 ties to the Settlement.

19 (III) The Secretary's plan for  
20 funding the costs of expanding Reach  
21 4B or any alternative route selected,  
22 whether by existing Federal funds  
23 provided under this Act, by non-Fed-  
24 eral funds, by future Federal appro-

1                    priations, or some combination of  
2                    such sources.

3                    (B) DETERMINATION REQUIRED.—The  
4                    Secretary shall, to the extent feasible, make the  
5                    determination in subparagraph (A) prior to un-  
6                    dertaking any substantial construction work to  
7                    increase capacity in Reach 4B.

8                    (3) COSTS.—If the Secretary’s estimated Fed-  
9                    eral cost for expanding Reach 4B in paragraph (2),  
10                  in light of the Secretary’s funding plan set out in  
11                  paragraph (2), would exceed the remaining Federal  
12                  funding authorized by this Act (including all funds  
13                  reallocated, all funds dedicated, and all new funds  
14                  authorized by this Act and separate from all com-  
15                  mitments of State and other non-Federal funds and  
16                  in-kind commitments), then before the Secretary  
17                  commences actual construction work in Reach 4B  
18                  (other than planning, design, feasibility, or other  
19                  preliminary measures) to expand capacity to 4500  
20                  cubic feet per second to implement this Settlement,  
21                  Congress must have increased the applicable author-  
22                  ization ceiling provided by this Act in an amount at  
23                  least sufficient to cover the higher estimated Federal  
24                  costs.

1 **SEC. 10. CALIFORNIA CENTRAL VALLEY SPRING RUN CHI-**  
2 **NOOK SALMON.**

3 (a) FINDING.—Congress finds that the implementa-  
4 tion of the Settlement to resolve 18 years of contentious  
5 litigation regarding restoration of the San Joaquin River  
6 and the reintroduction of the California Central Valley  
7 Spring Run Chinook salmon is a unique and unprece-  
8 dented circumstance that requires clear expressions of  
9 Congressional intent regarding how the provisions of the  
10 Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)  
11 are utilized to achieve the goals of restoration of the San  
12 Joaquin River and the successful reintroduction of Cali-  
13 fornia Central Valley Spring Run Chinook salmon.

14 (b) REINTRODUCTION IN THE SAN JOAQUIN  
15 RIVER.—California Central Valley Spring Run Chinook  
16 salmon shall be reintroduced in the San Joaquin River  
17 below Friant Dam pursuant to section 10(j) of the Endan-  
18 gered Species Act of 1973 (16 U.S.C. 1539(j)) and the  
19 Settlement, provided that the Secretary of Commerce  
20 finds that a permit for the reintroduction of California  
21 Central Valley Spring Run Chinook salmon may be issued  
22 pursuant to section 10(a)(1)(A) of the Endangered Spe-  
23 cies Act of 1973 (16 U.S.C. 1539(a)(1)(A)).

24 (c) FINAL RULE.—

25 (1) DEFINITION OF THIRD PARTY.—For the  
26 purpose of this subsection, the term “third party”

1 means persons or entities diverting or receiving  
2 water pursuant to applicable State and Federal law  
3 and shall include Central Valley Project contractors  
4 outside of the Friant Division of the Central Valley  
5 Project and the State Water Project.

6 (2) ISSUANCE.—The Secretary of Commerce  
7 shall issue a final rule pursuant to section 4(d) of  
8 the Endangered Species Act of 1973 (16 U.S.C.  
9 1533(d)) governing the incidental take of reintro-  
10 duced California Central Valley Spring Run Chinook  
11 salmon prior to the reintroduction.

12 (3) REQUIRED COMPONENTS.—The rule issued  
13 under paragraph (2) shall provide that the reintro-  
14 duction will not impose more than de minimis: water  
15 supply reductions, additional storage releases, or by-  
16 pass flows on unwilling third parties due to such re-  
17 introduction.

18 (4) APPLICABLE LAW.—Nothing in this sec-  
19 tion—

20 (A) diminishes the statutory or regulatory  
21 protections provided in the Endangered Species  
22 Act for any species listed pursuant to section 4  
23 of the Endangered Species Act of 1973 (16  
24 U.S.C. 1533) other than the reintroduced popu-  
25 lation of California Central Valley Spring Run

Chinook salmon, including protections pursuant to existing biological opinions or new biological opinions issued by the Secretary or Secretary of Commerce; or

(B) precludes the Secretary or Secretary of Commerce from imposing protections under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) for other species listed pursuant to section 4 of that Act (16 U.S.C. 1533) because those protections provide incidental benefits to such reintroduced California Central Valley Spring Run Chinook salmon.

(d) REPORT.—

(1) IN GENERAL.—Not later than December 31, 2024, the Secretary of Commerce shall report to Congress on the progress made on the reintroduction set forth in this section and the Secretary's plans for future implementation of this section.

(2) INCLUSIONS.—The report under paragraph (1) shall include—

(A) an assessment of the major challenges, if any, to successful reintroduction;

(B) an evaluation of the effect, if any, of the reintroduction on the existing population of California Central Valley Spring Run Chinook

1 salmon existing on the Sacramento River or its  
2 tributaries; and

3 (C) an assessment regarding the future of  
4 the reintroduction.

5 (e) FERC PROJECTS.—

6 (1) IN GENERAL.—With regard to California  
7 Central Valley Spring Run Chinook salmon reintro-  
8 duced pursuant to the Settlement, the Secretary of  
9 Commerce shall exercise its authority under section  
10 18 of the Federal Power Act (16 U.S.C. 811) by re-  
11 serving its right to file prescriptions in proceedings  
12 for projects licensed by the Federal Energy Regu-  
13 latory Commission on the Calaveras, Stanislaus,  
14 Tuolumne, Merced, and San Joaquin rivers and oth-  
15 erwise consistent with subsection (c) until after the  
16 expiration of the term of the Settlement, December  
17 31, 2025, or the expiration of the designation made  
18 pursuant to subsection (b), whichever ends first.

19 (2) EFFECT OF SUBSECTION.—Nothing in this  
20 subsection shall preclude the Secretary of Commerce  
21 from imposing prescriptions pursuant to section 18  
22 of the Federal Power Act (16 U.S.C. 811) solely for  
23 other anadromous fish species because those pre-  
24 scriptions provide incidental benefits to such reintro-

1       duced California Central Valley Spring Run Chinook  
2       salmon.

3       (f) EFFECT OF SECTION.—Nothing in this section is  
4       intended or shall be construed—

5               (1) to modify the Endangered Species Act of  
6       1973 (16 U.S.C. 1531 et seq.) or the Federal Power  
7       Act (16 U.S.C. 791a et seq.); or

8               (2) to establish a precedent with respect to any  
9       other application of the Endangered Species Act of  
10      1973 (16 U.S.C. 1531 et seq.) or the Federal Power  
11      Act (16 U.S.C. 791a et seq.).

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